

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	8:04CR158
)	
v.)	
)	
SILAS THORPE,)	ORDER
)	
Defendant.)	
_____)	

This matter is before the Court on defendant's petition for reduction in sentencing under Fair Sentencing Act H.B. 1789 in accordance with Section 3582(c)(2) (Filing No. [222](#)). The Fair Sentencing Act is not retroactive because it contains no express statement that it is retroactive, and the general saving statute, 1 U.S.C. § 109, provides that penalties imposed by a statute that is later repealed are not affected by the repeal unless the repealing act expressly provided that the repeal is retroactive. *United States v. Brewer*, 624 F.3d 900, 909 n. 7 (8th Cir. 2010); see also *United States v. Williams*, ___ F.3d ___, 2010 WL 5297179, at *6 (1st Cir. Dec. 28, 2010); *United States v. Diaz*, ___ F.3d ___, 2010 WL 5094222, at *1 (2d Cir. Dec. 15, 2010) (publication forthcoming); *United States v. Lewis*, 625 F.3d 1224, 1228 (10th Cir. 2010); *United States v. Bell*, 624 F.3d 803, 815 (7th Cir. 2010); *United States v. Gomes*, 621 F.3d 1343, 1346 (11th Cir. 2010); *United States v. Carradine*, 621 F.3d 575, 580 (6th Cir. 2010). Accordingly,

IT IS ORDERED that defendant's petition for reduction in sentencing under Fair Sentencing Act H.B. 1789 in accordance with Section 3582(c)(2) is denied.

DATED this 7th day of January, 2011.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court